

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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VALEANT PHARMACEUTICALS
INTERNATIONAL, INC.; SALIX
PHARMACEUTICALS, INC.; PROGENICS
PHARMACEUTICALS, INC.; and
WYETH LLC, formerly known as WYETH,

Plaintiffs,

v.

MYLAN PHARMACEUTICALS, INC.;
MYLAN LABORATORIES LTD.; MYLAN
INC.; and ACTAVIS LLC.

Defendants.

Civil Action No. 15-8180 (SRC) (CLW)
(consolidated)

Document Electronically Filed

**[PROPOSED] ORDER FOR FINAL
JUDGMENT UNDER
FED. R. CIV. P. 54(B)**

WHEREAS, this is an action for patent infringement having been brought by Plaintiffs Valeant Pharmaceuticals, Inc., Salix Pharmaceuticals, Inc., Wyeth LLC, and Progenics Pharmaceuticals, Inc. (collectively, "Plaintiffs") against Defendants Actavis LLC ("Actavis") and Mylan Pharmaceuticals Inc., Mylan Laboratories Ltd., and Mylan Inc. (collectively, "Mylan") (Actavis and Mylan together, "Defendants");

WHEREAS, on May 1, 2018, the Court issued its Opinion and Order, granting Plaintiffs' motion for partial summary judgment as to Defendants' defense to infringement of claim 8 of U.S. Patent No. 8,552,025 ("the '025 patent") of invalidity due to obviousness;

WHEREAS, Actavis has stipulated to infringement of, *inter alia*, claim 8 of the '025 patent with respect to Actavis's Abbreviated New Drug Application ("ANDA") Nos. 208038 and 208112;

WHEREAS, Mylan has stipulated to infringement of, *inter alia*, claim 8 of the '025 patent with respect to Mylan's ANDA Nos. 208592 and 208594;

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

1. This Court has jurisdiction over the Parties and subject matter of this action.
2. This Court, for the reasons stated herein and in the Court's May 1, 2018, Opinion and Order (ECF No. 300), finds that said Opinion and Order is effectively a final adjudication of Plaintiffs' claims of patent infringement against Defendants as to claim 8 of the '025 patent, and of Defendants' affirmative defenses and/or counterclaims as to such claims, and that pursuant to Federal Rule of Civil Procedure 54(b) there is no just reason for delay in entering a final judgment that allows for an appeal of this ruling.
3. JUDGMENT is hereby entered under Federal Rule of Civil Procedure 54(b) in favor of Plaintiffs and against Actavis and Mylan as to claim 8 of the '025 patent.
4. ORDERED that pursuant to 35 U.S.C. § 271(e)(4)(A) the effective date of any approval of Actavis's ANDA No. 208038 be a date that is not earlier than the date of expiration, including any extensions by the FDA, of the '025 patent.
5. ORDERED that pursuant to 35 U.S.C. § 271(e)(4)(A) the effective date of any approval of Actavis's ANDA No. 208112 be a date that is not earlier than the date of expiration, including any extensions by the FDA, of the '025 patent.
6. ORDERED that pursuant to 35 U.S.C. § 271(e)(4)(A) the effective date of any approval of Mylan's ANDA No. 208592 be a date that is not earlier than the date of expiration, including any extensions by the FDA, of the '025 patent.
7. ORDERED that pursuant to 35 U.S.C. § 271(e)(4)(A) the effective date of any approval of Mylan's ANDA No. 208594 be a date that is not earlier than the date of expiration, including any extensions by the FDA, of the '025 patent.

8. This Court shall retain jurisdiction of these actions and over the Parties for purposes of enforcement of the provisions of this Judgment and Order, and for all remaining asserted claims, defenses, and counterclaims in this action.

IT IS SO ORDERED this 23rd day of MAY 2018.



THE HONORABLE STANLEY R. CHESLER
UNITED STATES DISTRICT COURT
United States District Court Judge